

§ 536.404

exists an interest of the specially designated narcotics trafficker.

§ 536.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 536.201 if effected after the effective date.

§ 536.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, specially designated narcotics trafficker or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license.

§ 536.406 Provision of services.

(a) Except as provided in § 536.205, the prohibitions contained in § 536.201 apply to services performed by U.S. persons, wherever located:

(1) On behalf of, or for the benefit of, a specially designated narcotics trafficker; or

(2) With respect to property interests of a specially designated narcotics trafficker.

(b) *Example:* U.S. persons may not, except as authorized by the Office of Foreign Assets Control by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, educational, or other services to a specially designated narcotics trafficker. See § 536.506, with respect to certain authorized legal services.

§ 536.407 Offshore transactions.

The prohibitions contained in § 536.201 apply to transactions by U.S. persons in locations outside the United States with respect to property which the U.S. person knows, or has reason to know, is held in the name of a specially designated narcotics trafficker, or in which the U.S. person knows, or has reason to know, a specially designated narcotics trafficker has or has had an interest since the effective date.

31 CFR Ch. V (7-1-04 Edition)

§ 536.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.

(a) A change or alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker shall not be the basis for removal of that entity from the list of specially designated narcotics traffickers unless, upon investigation by the Office of Foreign Assets Control and submission of evidence by the entity, it is demonstrated to the satisfaction of the Director of the Office of Foreign Assets Control that the transfer to a bona fide purchaser at arm's length is legitimate and that the entity no longer meets the criteria for designation under § 536.312. Evidence submitted must conclusively demonstrate that all ties with other specially designated narcotics traffickers have been completely severed, and may include, but is not limited to, articles of incorporation; identification of new directors, officers, shareholders, and sources of capital; and contracts evidencing the sale of the entity to its new owners.

(b) Any continuing substantial financial obligations on the part of the new owners to any specially designated narcotics traffickers, including long-term payment plans, leases, or rents, will be considered as evidence of continuing control of the entity by the specially designated narcotics trafficker. Purchase of a designated entity without ongoing substantial financial obligations to a specially designated narcotics trafficker may nonetheless be a basis for subsequent designation of the purchaser, if the transaction is determined materially to assist in or provide financial support for the narcotics trafficking activities of specially designated narcotics traffickers for purposes of § 536.312(b)(2). For example, any acquisition transaction resulting in a direct cash transfer to or other enrichment of a specially designated narcotics trafficker could lead to designation of the purchaser. Mere change in name of an entity will not be considered as constituting a change of the entity's status.